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**SENATE BILL 5862**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senators Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, C. Wilson, and J. Wilson

Read first time 01/14/22. Referred to Committee on Environment, Energy & Technology.

1 AN ACT Relating to technical changes to the commercial property  
2 assessed clean energy and resiliency program; and amending RCW  
3 36.165.060.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.165.060 and 2020 c 27 s 7 are each amended to  
6 read as follows:

7 (1) The C-PACER lien amount plus any interest, penalties, and  
8 charges accrued or accruing on the C-PACER lien:

9 (a) Takes precedence over all other liens or encumbrances except  
10 a lien for taxes imposed by the state, a local government, or a  
11 junior taxing district on real property, which liens for taxes shall  
12 have priority over such benefit C-PACER lien, provided existing  
13 mortgage holders, if any, have provided written consent described in  
14 RCW 36.165.070; and

15 (b) Is a first and prior lien, second only to a lien for taxes  
16 imposed by the state, a local government, or a junior taxing district  
17 against the real property on which the C-PACER lien is imposed, from  
18 the date on which the notice of the C-PACER lien is recorded until  
19 the C-PACER lien, interest, penalties, and charges accrued or  
20 accruing are paid.

1 (2) The C-PACER lien runs with the land, and that portion of the  
2 C-PACER lien that has not yet become due is not accelerated or  
3 eliminated by foreclosure of the C-PACER lien or any lien for taxes  
4 imposed by the state, a local government, or junior taxing district  
5 against the real property on which the C-PACER lien is imposed.

6 (3) Delinquent installments due on a C-PACER lien incur interest  
7 and penalties as specified in the financing agreement.

8 (4) After the C-PACER lien is recorded as provided in this  
9 section, the voluntary assessment and the C-PACER lien may not be  
10 contested on the basis that the improvement is not a qualified  
11 improvement or that the project is not a qualified project.

12 (5) Collection and enforcement of delinquent C-PACER liens or C-  
13 PACER financing installment payments, including foreclosure, shall  
14 remain the responsibility of the capital provider.

15 (6) (a) The C-PACER lien shall be enforced by the capital provider  
16 at any time after one year from the date of delinquency in the same  
17 manner that the collection of delinquent real property taxes is  
18 enforced by the county and county treasurer under chapter 84.64 RCW,  
19 including the provisions of RCW 84.64.040, excepting that ((a)):

20 (i) A sworn declaration by the capital provider or assignee  
21 attesting to the assessment delinquency of at least one year shall be  
22 used in lieu of the certificate required under RCW 84.64.050; and

23 (ii) Any action or obligation under RCW 84.64.080, including the  
24 issuance of a tax deed, that cannot be undertaken by the capital  
25 provider or assignee shall be performed by the county or county  
26 treasurer. These duties facilitate the enforcement of the C-PACER  
27 lien by the capital provider or assignee, as applicable, and shall  
28 not constitute prohibited enforcement activities under RCW  
29 36.165.110.

30 (b) Any amounts received by the county or county treasurer  
31 related to delinquent installments due on a C-PACER lien, whether by  
32 sale or redemption, shall be remitted to the capital provider or  
33 assignee, as applicable.

34 (c) All costs that may be incurred by the county or county  
35 treasurer from activities taken pursuant to this section shall be  
36 reimbursed by the capital provider or assignee, as applicable, to the  
37 county or county treasurer.

38 (7) The capital provider may sell or assign, for consideration,  
39 any and all liens received from the participating county. The capital  
40 provider or their assignee shall have and possess the same powers and

1 rights at law or in equity to enforce the C-PACER lien in the same  
2 manner as described in subsection (6) of this section.

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